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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,721	10/13/2003	Tsuyoshi Mekata	5077-059 /DVA	4346

27572 7590 06/23/2004

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EXAMINER	
HANNAHER, CONSTANTINE	
ART UNIT	**PAPER NUMBER**
2878	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/684,721	MEKATA ET AL.	
	Examiner	Art Unit	
	Constantine Hannaher	2878	

-- Th MAILING DATE of this communication appears on the cover sheet with th correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-18* is/are pending in the application.

4a) Of the above claim(s) *1,3-12,17 and 18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13 and 15* is/are rejected.

7)☒ Claim(s) *14 and 16* is/are objected to.

8)☒ Claim(s) *1 and 3-18* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. PCT/JP00/00116.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20031013*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 1, 3-12, 17, and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed in the parent application and by the presentation of the amended claims in this application.

2. Applicant is cautioned that an application claiming priority under 35 U.S.C. 120 to a national stage application is not itself a national stage application, and a restriction requirement in such an application is made under the usual domestic restriction practice rather than the unity of invention standard applied in national stage applications. That being said, the inventions represented by claims 1 and 3-8 (examined in the parent application), claims 9-12, claims 13-16, and claims 17 and 18 represent distinct inventions at least under the principle of subcombinations usable together and would be properly restricted into the groups set forth in the parent application.

Information Disclosure Statement

3. The Examiner regrets the delay in noticing that JP 10-142065 was listed twice.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Skertic *et al.* (US005187939A).

With respect to independent claim 13, Skertic *et al.* discloses an infrared imaging device (Fig. **5**) to be installed in a vehicle comprising an infrared detector **28** (column 3, lines 41-46), an optical system **105** for causing an infrared radiation from an object to form an image on the infrared detector (column 6, lines 51-56), and a temperature retaining structure **26** for stabilizing a temperature in a vicinity of the infrared detector **28** and the optical system **105** by using a mechanism in the vehicle (column 6, lines 56-58).

With respect to independent claim 15, Skertic *et al.* discloses a vehicle (Fig. **5**) comprising an infrared imaging device **28** (column 3, lines 41-46) and a temperature retaining structure **26** for stabilizing a temperature in a vicinity of the infrared imaging device **28** by using a mechanism in the vehicle (column 6, lines 56-58).

Response to Submission(s)

6. The amendment filed October 13, 2003 has been entered.

7. This application has been published as US2004/0075742A1 on April 22, 2004.

Allowable Subject Matter

8. Claims 14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the circulation of specifically "engine coolant of the vehicle" is not suggested.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ellis is another missile with an infrared imaging device.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Constantine Hannaher whose telephone number is (571) 272-2437. The examiner can normally be reached on Monday-Friday with flexible hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Constantine Hannaher
Primary Examiner